

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2096.04
COMPLAINT INVESTIGATOR:	Sally Cook
DATE OF COMPLAINT:	February 19, 2004
DATE OF REPORT:	March 16, 2004
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	May 13, 2004

COMPLAINT ISSUES:

Whether the School City of East Chicago violated:

511 IAC 7-25-5 by failing to follow procedures regarding an independent educational evaluation requested by a parent; and

511 IAC 7-25-4 by failing to conduct an initial educational evaluation and convene the case conference committee within 60 instructional days of the date of written parental consent.

FINDINGS OF FACT:

1. The Student is 12 years old and has been formally referred for an educational evaluation to determine the nature and extent of a suspected disability, but not yet determined eligible for special education and related services.
2. On September 4, 2002, the Parent signed the Parent Notice Permission for Education Evaluation (First Consent Form), for an initial educational evaluation. The First Consent Form was received by certified personnel on the date it was signed. Checkmarks on the First Consent Form indicated that assessments areas would include social/emotional and physical condition, that evaluation techniques would include exchange of records, and that possible evaluation/consultation personnel would include the school psychologist, teacher(s), school nurse, educational diagnostician, and school specialist.
3. Also on September 4, 2002, the School identified the Student as eligible for services and accommodations, under Section 504 of the Rehabilitation Act of 1973 as amended (Section 504).
4. The School did not conduct an educational evaluation or convene the case conference committee (CCC) within 60 instructional days of the date of the First Consent Form because the School believed that the Parent changed her mind about an educational evaluation once the Section 504 Plan was adopted. The Parent denies that an education evaluation was declined or that the First Consent Form was withdrawn, rescinded or revoked. There is no documentation supporting the School's belief to the contrary.
5. On January 17, 2003, the Student's Parent signed another copy of the School's Parent Notice of Permission for Educational Evaluation (Second Consent Form).
6. On or about February 6, 2003, an educational evaluation of the Student was conducted.

7. On or about March 5, 2003, the Student's CCC convened. Although the Case Conference Report states that the school psychologist participated as teacher of record, the School acknowledges that this was a clerical error. Neither the school psychologist nor a special education teacher participated in the CCC meeting. The CCC concluded that the Student "does not qualify for our Special Education Program."
8. As the school psychologist was not present at the CCC meeting in March, 2003, the Parent requested a second CCC meeting. On June 2, 2003, the CCC reconvened to "review testing results and explain testing results in layman's language." The discussion notes refer to the Student's treatment by private providers, and the CCC Report concludes with a "Recommendation" consisting of a list of 5 items including "(1) Parent to get medical explanation for OHI, and (2) Upon receipt CCC will meet & write IEP...."
9. As of September 25, 2002, the School was in possession of a written diagnostic statement by a physician who provided a statement in connection with homebound services for the Student. After June 2, 2003, the Parent submitted a Psychological Evaluation by a licensed clinical psychologist, providing diagnostic information and recommending consideration of supportive services for students with emotional handicaps. The School did not accept these documents as adequate for determining the Student currently eligible under the classification of Other Health Impairment. The School sought additional information, and on September 9, 2003, the School sent to the Student's oncologist a copy of 511 IAC 7-26-12. On November 19, 2003, the School wrote to the Parent informing the Parent that it will be "necessary to further investigate and explore the issue" of the additional condition diagnosed by the psychologist.
10. On November 7, 2003, the Student's case conference committee (CCC) reconvened. During the meeting, the Parent requested independent testing. The School's agreement to pay for an independent education evaluation is documented in the General Case Conference Form and a letter to the Parent, both dated November 7, 2003. The letter listed the names, addresses, and phone numbers of three independent evaluators and also authorized reimbursement "to any other qualified school psychologist provided their fees are consistent within reasonable rates charged for this type of evaluation."
11. Subsequently, the Parent clarified that the Parent sought independent achievement testing, rather than a comprehensive evaluation. Specifically, the Parent preferred to have the assessment conducted by a company that is a state-approved supplemental service provider.
12. On November 19, 2003, the School wrote to the Parent clarifying that an independent achievement assessment could be obtained (at public expense) "as long as the individual performing the evaluation meets the guidelines as outlined in Article 7...."

CONCLUSIONS:

1. Findings of Fact #10, #11, and #12 indicate that the School provided a timely written response to the Parent's request for an independent educational evaluation. Therefore, no violation of 511 IAC 7-25-5 occurred.
2. Findings of Fact #2, #3, #4, #5, #6, and #7 indicate that the School failed to conduct an initial educational evaluation and convene the case conference committee (CCC) within 60 instructional days of the date that written parental consent was first received. Notwithstanding the CCC's conclusion as indicated in Finding of Fact #7, Findings of Fact #8 and #9 indicate that the process of gathering and discussing evaluation information had not been completed as of November 19, 2003. Therefore, a violation of 511 IAC 7-25-4 occurred.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

On or before April 9, 2004, the School City of East Chicago shall reconvene the Student's case conference committee to review available evaluation information and to make a determination whether the Student is or is not eligible for special education and related services under any classification in 511 IAC 7-26. The School shall provide the Parent with a written report of the CCC meeting that conforms to 511 IAC 7-27-5(a) and (b).

Documentation of compliance, consisting of the Case Conference Report (and IEP if the Student is determined eligible), shall be submitted to the Indiana Department of Education, Division of Exceptional Learners, by April 16, 2004.